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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/877,392	06/08/2001	Gordon James Smith	ROC920010089US1	2432
7590	09/23/2005			
Gero G. McClellan Thomason, Moser & Patterson, L.L.P. Suite 1500 3040 Post Oak Boulevard, Houston, TX 77056-6582			EXAMINER LE, KHANH H	
			ART UNIT 3622	PAPER NUMBER
DATE MAILED: 09/23/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/877,392

Applicant(s)

SMITH, GORDON JAMES

Examiner

Khanh H. Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-3, 5-22, 24- 41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-22, 24- 41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. This Office Action is responsive to Correspondence received May 09, 2005. Claims 1-3, 5-22, 24- 41 are pending; claims 1, 25 and 31 are independent. The previous art rejections are withdrawn.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. **Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

Claim 14 : “ the level of gasoline” is lacks antecedent basis and is unclear. Is this the same as the “amount of gasoline consumed” in claim 13? For prior art purposes, it is interpreted to be the amount of gasoline present in the car at the last fueling. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by

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another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 3, 5-7, 18, 24, 31, 33, 35-38, and 41 rejected under 35 U.S.C. 102(e) as being anticipated by Wilson, US 6813609.

As to claims 1, 18, 24, 31, 35-37,
Wilson discloses, explicitly and/or at least implicitly,

An apparatus and method for providing an interface to drivers of vehicles, the apparatus comprising:

a memory for storing a pay-at-delivery system (PADS) interface program;
a network interface for communicating with a database (col. 37 lines 56-65) ;
a wireless communication device for receiving a vehicle identifier from a vehicle (Figs. 1, 2A (vehicle transponder 64), Figs. 26A-B and associated text)
and to identify the driver of the vehicle using at least the vehicle identifier (Figs. 26A-B, and associated text)

a display device for displaying at least one of driving information and consumer information (Figs. 1-3, 26A-B and associated text; col. 37 lines 44-55); and
a processor, upon executing the PADS interface program, configured to provide consumer information to the display device wherein the display is integrated with the PADS system (Figs. 1-9, 26A-B and associated text;
col. 37 lines 44-55);

wherein the vehicle identifier comprises a radio frequency identifier (RFID) code.
(col. 6 lines 1-20)

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wherein the database comprises a weather database, a transportation database, a customer database (Fig. 26A and associated text); and

wherein the network interface enables communication with a server computer (col. 38 lines 1-22);

wherein the consumer information comprises advertising information (Fig. 26A and associated text).

As to claims 3,7, 33, 41, Wilson implicitly discloses
broadcasting a signal configured to elicit a transmission of the vehicle identifier from the vehicle
(col. 37 lines 63-67)

and

wherein the identifying the driver comprises: querying a customer database for an identity of the driver of the vehicle given the received vehicle identifier; and retrieving the identity of the driver from a customer database (Fig.26A and B and associated text).

As to claims 5-6, 28-30, 38, Wilson discloses
wherein the providing is performed in response to a transaction between the driver and the PADS
((Fig.26A and B and associated text: e.g. fueling).
and wherein the transaction comprises at least one of a receipt of a password from the driver and
a receipt of a credit card number from the driver (col.38 lines 46-56).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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1.

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 17, 19-22, 34, and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson as applied to claims 1 and 31 above, and further in view of certain Official Noticed facts.

As to claims 17 and 40,

Wilson discloses the consumer information comprises an offer of credit on a future purchase (loyalty benefits based on past and/or current transactions. provided to encourage subsequent return to a particular fueling environment or the purchase of additional products during the current or a subsequent transaction, see Figs 10C and associated text)

but does not specifically disclose a sequence of advertisements displayed on the PADS and an electronic mail advertisement message. However,

Wilson discloses all sorts of personalized consumer information including advertisements, video, music entertainment, etc... and other types of information accessible through the Internet (col. 40 lines 35-58).. Official Notice is taken that it is well known ,in the Internet environment, to provide sequence of advertisements as well as advertisement as emails, as entertaining and efficient advertising media. Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to add providing sequence of advertisements as well as advertisement as emails so “to make the customer's visit to the fueling environment more pleasurable” (Wilson, col. 40 lines 49-50).

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As to claims 19-21, and 34 Wilson does not specifically disclose determining a grade of gasoline selected by the driver of the vehicle; and displaying a sequence of advertisements on a pay at delivery system (PADS) corresponding to the selected grade of gasoline.

wherein the determining the grade of gasoline comprises: identifying a grade of gasoline selected from a purchase history of the driver in a customer database.

and wherein the sequence of advertisements is different for different grades of gasoline.

However monitoring purchasing histories and presenting ads based on the purchasing histories (as to past as well as instant purchases), and based on the product category, are well-known effective targeted marketing techniques. Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to add such targeting, based on purchases tracking techniques, to the ad presentation at the pump method of Wilson to make the ads more relevant to the product bought. Since Wilson teaches presenting ads at a fueling point of sale (POS) with the product for sale being fuel, it would further have been obvious a product category to monitor and base the ads on, be the fuel grade.

Identifying a product category selected from a purchase history in a customer database is a well-known intermediate step in the above targeting scheme.

Thus identifying a grade of gasoline selected from a purchase history of the driver in a customer database, as claimed in claim 20, would have been an obvious intermediate step, when the product is fuel as in Wilson. Further tailoring the ads or sequence of ads to be different for different grades of gasoline would have been obvious, as claimed in claim 21, when the product is fuel as in Wilson, in view of the well-known method of dispensing ads based on the product category.

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As to claim 22, Wilson does not specifically disclose offers of incentives as credit for future purchases in exchange for filling out incomplete customer files. However Official Notice is taken that it is well known to offer incentives to induce customer to provide or update their profiles for marketing purposes. Credit for future purchases are also well-known incentives. Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to add such techniques of offering incentives to Wilson for the above stated purposes.

8. Claims 15, 16, 25-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson as applied to claim 1 above (as to claims 15-16), and further in view of Lee et al, US 6374177 B1.

As to claims 15, 16, 25-27, Wilson discloses all the limitations as discussed above. In addition, Wilson discloses local traffic, weather information displayed at the PADS but not as related to a detected route or destination of the driver.

However Lee et al, US 6374177 B1 discloses an internet radio for portable applications and uses such as in an automobile enables providing navigational services to be provided to a wireless communication device, and comprises the steps of providing a user interface in said wireless communication device for providing navigational services to a user; downloading updated navigational data from a remote network; and providing navigational services based upon said updated navigational data. Customized information is also communicated to the radio such as stock quotes, travel information, advertising, and e-mail. Onboard global positioning allows for channel updating by location, traffic information, geographic advertising and available similar content.

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Lee also discloses traffic alerts based upon the user's route (notifies of any delays as they happen in real time on the route), email messages, or the like (see at least col. 12 lines 1-9). It is implicit a transportation database is used in Lee.

It would have been obvious to one skilled in the art at the time the invention was made to add Lee to Wilson to provide the relevant information at the PADS as well in-vehicle to bring the urgent alerts immediately to the attention of the driver whether she's at the pump or service center, outside the vehicle or inside.

As to claims 28-30, Wilson discloses wherein the providing is performed in response to a transaction between the driver and the PADS ((Fig.26A and B and associated text: e.g. fueling) and wherein the transaction comprises at least one of a receipt of a password from the driver and a receipt of a credit card number from the driver (col.38 lines 46-56).

9. Claim 2, 8-10, 32 and 39 rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson as applied to claims 1 and 31 above, and further in view of Sepe, US 6,792,321.

As to claims 2, 32, 8, 39,

Sepe discloses real-time remote monitoring and controlling of a vehicle via a network such as the Internet with an in-vehicle GUI. Using Internet based communications such as e-mail or browser based sessions, a series of remote instructions are sent from a computer to the vehicle to be monitored and controlled. Monitoring is continuous and automatic with *service and preventive maintenance alerts* initiated only when needed to the relevant parties.

Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to add Sepe's disclosure continuous and automatic with service alerts or reminder to the relevant party, the driver, to Wilson's display of personalized messages at the pump, to allow the driver to avoid unexpected breakdowns. Sepe alert or service messages

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method would have been added to Wilson to allow the driver , while at the pump, conveniently to obtain service in response to the alert or reminder.

Wilson does not but Sepe discloses transmitting driving information to the vehicle via the wireless network, where the driving information is configured for display in the vehicle.

Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to add Sepe's disclosure of a in-vehicle GUI to Wilson so the proper driving information be available to the driver while enroute to avoid unexpected breakdowns. Sepe would have been added to Wilson to allow sending the alert messages both while driving and at the pump, where service in response to the alert could be obtained, for the convenience of the driver in both situations.

As to claims 9-10, as discussed above WILSON/SEPE would disclose service alerts at the pump display but does not specifically disclose determining whether a recall alert exists for the vehicle; and transmitting, if the recall alert exists for the vehicle, the recall alert to the vehicle.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to add to WILSON/SEPE method of providing service alerts, providing recall information, because obtaining recall information as soon as possible is desired by most motorists to prevent breakdowns or danger. Providing the information at the pump as done in WILSON/SEPE would have been further obvious to allow drivers to easily remember, while dealing with their vehicles, to turn in their vehicles for recall. It is further obvious the recall alert is in a manufacturer database.

10. Claims 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson as applied to claim 1 above, and further in view of Zimmerman, US 2004/0230498 A1.

As to claims 11-12, Wilson does not disclose detecting current mileage from the vehicle.

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However, Zimmerman US 2004/0230498 A1, discloses wirelessly communicating diagnostic information from a vehicle. The diagnostic information includes at least one of mileage of the vehicle, fuel contained in the vehicle, and a number identifying the vehicle. Location of the vehicle may be detected too. The diagnostic information communication any time a diagnostic error code is detected and may be wirelessly received by a dealership or manufacturer service center of the vehicle along with the profile of the vehicle owner. The driver is notified of the communication once initiated (see at least Fig. 6 and associated text).

Official Notice is taken that it is well-known that service is needed after a certain mileage differential and that businesses often send service reminders after a certain threshold for service is past such as time. When the threshold for service is a mileage differential, it would have been obvious for a business to want to "determine a past mileage of the vehicle when the vehicle was last serviced; and determine whether a difference between the current mileage and the past mileage of the vehicle is greater than a threshold mileage, where the service reminder is transmitted if the difference is greater than the threshold mileage."

Official Notice is further taken that it is well-known customer purchasing profiles such as their vehicle service profiles, including the mileage when the vehicle was last serviced, are kept by businesses, for further service and marketing.

Further Zimmerman discloses the capability of obtaining a current mileage of the vehicle.

In view of all the well-known purchase history database tracking and data mining techniques, and the current mileage tracking possibilities disclosed by Zimmerman, it would have been obvious to one skilled in the art at the time the invention was made that businesses would want to use such technologies to compute the threshold and sent service reminders if the difference is greater than the threshold mileage, as claimed, for the obvious reason to get the service fees.

As discussed above WILSON/SEPE discloses service alerts and reminders at the pump or service center to apprise of the need for service where service can easily be obtained. Thus it would have been obvious to one skilled in the art at the time the invention was made to add sending the service reminder based on the calculated mileage differential as discussed above, to WILSON/SEPE, as was done for the other types of alerts/reminders, for the same purpose of convenience to the driver.

As to claims 13-14 regarding calculating a gas mileage based on “determining whether an amount of gasoline consumed since a last fueling of the vehicle is available; if so, obtaining a current mileage of the vehicle and the mileage of the vehicle when the vehicle was last fueled; and calculating a gas mileage of the vehicle from the amount of gasoline consumed, the current mileage of the vehicle and the mileage of the vehicle when the vehicle was last fueled, where the calculated gas mileage is transmitted as driving information. and wherein the level of gasoline and the mileage of the vehicle when the vehicle was last fueled is in a customer database for the driver of the vehicle”

As discussed in claims 11-12, purchase histories tracking, mining and the keeping of associated data in appropriated databases for further marketing are known. Calculation of gas mileage based on amount of gas consumed and the mileage differential between 2 refueling is well-known. Zimmerman discloses current mileage monitoring. Official Notice is taken that it is well-known that businesses like to send informational messages as a service add-on. It would have been obvious to one skilled in the art at the time the invention was made for businesses to want to send a gas mileage informational message to the driver as she's at that pump because the message would be highly relevant and interesting at that particular time. In view of all the purchase history database tracking techniques, and the current mileage tracking possibilities disclosed by Zimmerman, it would have been obvious for businesses to compute the gas mileage from the data collected in the manner as claimed so to offer the gas mileage information to the driver. Again, all the above would have obvious to be added to WILSON/SEPE to offer the information when most relevant.

Response to Arguments

11. Applicant's arguments with respect to all claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Roddy et al, US 2003/0055666 discloses System and method for managing a fleet of remote assets, and Cumulative Fuel Use (e.g., Per Hour, Per Driver, Per Mile) using historical data based on a plurality of measured and or calculated parameters.

Pierro, US 6301531 B1, discloses an apparatus and method of predicting vehicle breakdown and operability includes monitoring at a monitoring station on-board systems parameter data transmitted from a vehicle from a remote location; determining whether any of the monitored data is out of a predetermined range; calculating trends for monitored data determined to be out of range; identifying any system fault; and predicting what vehicle system(s) must be corrected to avoid vehicle failure and when such system(s) are likely to fail unless corrected. On-board diagnostic systems, communicate with a vehicle's maintenance or scheduling centers. Those centers have direct access to systems data from remote vehicles which would be helpful in optimizing vehicle maintenance scheduling and route planning while minimizing vehicle downtime arising from unexpected breakdowns.

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13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh H. Le whose telephone number is 571-272-6721. The Examiner works a part-time schedule and can normally be reached on Tuesday-Wednesday 9:00-6:00.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Eric Stamber can be reached on 571-272-6724. The fax phone numbers for the organization where this application or proceeding is assigned are **571-273-8300** for regular communications and for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-3600. For patent related correspondence, hand carry deliveries must be made to the Customer Service Window (now located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

September 19, 2005


KHL


JAMES W. MYHRE
PRIMARY EXAMINER